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The Brotherhood of Maintenance of Way Employees.
RAIL CYCLE NORTH AS A SOLUTION TO THE GREATER TORONTO
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Rail Cycle North as a Solution to The Greater Toronto Area Waste Disposal Issue

A Position Paper

**The Brotherhood of
Maintenance of Way Employees**
April 16, 1992

Earth Sciences Library

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Executive Summary

In recent years the level of municipal solid waste (MSW), or garbage, produced by Canadian households has begun to outstrip the capacity of our existing landfills. This problem is particularly severe in the Greater Toronto Area (GTA). While important efforts are underway to reduce the amount of MSW produced landfills will still be necessary for the foreseeable future. In 1989 a proposal was developed to ship some of this waste by train to an abandoned mine site near Kirkland Lake. The proposal, known as Rail-Cycle-North (RCN) was put forth by a private developer and accepted by Metro Toronto, and the three "host" communities. An agreement committing the three parties to go ahead with the project was signed. CN Rail and the Ontario Northland Transportation Commission were also participants in the proposal. In addition to landfilling waste the agreement also called for the establishment of a recycling facility and research and development centre. All parties agreed that the proposal was subject to receiving approval through the provincial environmental assessment process.

In October of 1992 the provincial government introduced Bill 143 - An Act respecting the Management of Waste in the Greater Toronto Area and to amend the Environmental Protection Act. This Bill, among other things, effectively prohibits the transportation of GTA waste to areas outside the GTA. It legislates the principle of local responsibility for waste disposal. Bill 143 received Royal Assent on April 27, 1992.

The Brotherhood of Maintenance of Way Employees argues, in this paper, that the government's position on the transport of GTA

waste, as expressed in the new legislation, is not in the best interests of Ontarians. The reasons for the government's position are not convincing. The Rail-Cycle-North proposal is deemed to be unacceptable simply because it violates the principle of local responsibility for waste. There is no apparent effort made to compare the environmental and economic costs and benefits of the proposal with the Environment Minister's preferred alternative of keeping the garbage in the GTA. Rather than seeking to find the most environmentally and economically acceptable solution to the waste disposal problem the Minister of the Environment appears to be using the Bill to promote personal preferences for waste management solutions. While the Brotherhood believes that local responsibility for local waste is a laudable goal it may not yet be a realistic option, particularly when an environmentally acceptable alternative may exist that could do much to improve the economic situation in Northern Ontario.

While the Brotherhood does not commit itself to full support of the RCN proposal it does believe that the proposal is worthy of further consideration. Consequently, the Brotherhood recommends that the Minister use her powers to modify the new legislation so that waste transportation to willing communities can again become an alternative for GTA waste disposal.

1.0 Introduction

The Brotherhood of Maintenance of Way Employees (BMWE) was formed in 1887 in order to represent those railway workers responsible for safely maintaining the railway tracks. Since that time the Brotherhood has fought long and hard to achieve safe working conditions and fair remuneration for its members. While conditions are much improved from those early days the Union must continue to work hard to protect those gains and represent the rights of its members. However, in an increasingly complex modern world simply looking after traditional union business is no longer enough. The Brotherhood must also take an active role in meeting the challenges of the future. Chief among those challenges is the very viability of rail traffic in Canada, a country founded on the establishment of a great trans-continental railway. The distressing reality is that even in an era of increasing environmental awareness and genuine environmental crisis the Canadian rail business is hurting. At a time when fossil fuel emissions from automobiles and a huge trucking industry are making significant contributions to acid rain, the greenhouse effect and general toxic precipitation train traffic is on a decline. Depending on the load being pulled the amount of fossil fuel used to transport a given load by train is 25% to 35% of that needed to transport by truck.¹

Yet what do we see in this day and age but the Mulroney government forcing massive cuts in VIA rail service, CN tearing up all rail track in the provinces of Newfoundland and Prince Edward

¹ CN Rail, 5R Waste Management, p.4.

Island and substantial government subsidies and concessions to an inefficient and environmentally hostile trucking industry. In the past 10 years CN has closed down nearly 1300 kilometres of track in Ontario alone.² At the same time countries the world over are expanding rail service in recognition of its economic efficiencies of scale and minimal environmental effects. As the Union heads into its second century it is all too aware that rail traffic in Canada is itself facing a crisis; a crisis that demands the input of all affected Canadians to ensure that rail traffic continues to survive, and even flourish, as we move into the 21st century.

In light of this crisis the Brotherhood has decided to take a more active role in addressing rail issues in Canada. Recently the Union was an active player in attempting to save the Sydney-Truro CN line from being sold to a consortium of private American investors. In leading this fight the Union found itself supported by a wide cross-section of interest groups and everyday citizens all of whom felt that a crown corporation should not be able to sell off something that belongs to all Canadians in the absence of any public consultation.

Another recent issue of concern to the Brotherhood is a project known as Rail-Cycle-North (RCN). This is a proposal to transport Metro Toronto's garbage by sealed rail car to an abandoned pit mine near Kirkland Lake, in northern Ontario. This proposal has created a considerable amount of controversy.

² Presentation of Mr. A. Deegan, CN Rail, to the Standing Committee on Social Development, Bill 143 Hearings, February 10, 1992, Hansard p. S-1312.

Proponents argue that this project is both economically and environmentally sound. They say it will protect Metro residents from having to dispose of their garbage in crowded landfill sites close to large population sites. It will, instead, landfill waste in an unpopulated rural site using environmentally safe techniques. It will provide economic initiatives to the depressed northern economy in the form of a recycling facility and economic spin-off activities. It will revitalize a sagging Ontario Northland railway and save Metro money. The proposal was developed by Notre Development Corporation (Notre), the present owner of the mine site, and is supported by all the involved northern municipalities, Metro Toronto, CN Rail, the Ontario Northland Transportation Commission and various regional economic development bodies.

Opponents dispute all the alleged benefits. Ontario's NDP government is one of the strongest opponents to the project. The Minister of the Environment, Ruth Grier, has objected to the proposal primarily on the grounds that responsibility for waste disposal should remain at the local level. Bill 143, The Waste Management Act, currently before the Ontario legislature, would ensure that the long distance transport would not be considered as an option for dealing with Metro's wastes.

While the Brotherhood's interest was initially drawn by the project's potential to revitalize the troubled Ontario Northland Railway (ONR) and the CN line between Toronto and North Bay the Brotherhood does not accept that job creation alone is sufficient to justify any development project. New economic development must

be sustainable; it must not compromise the environment in which it takes place. It has taken far too long for our society to realize that economy and environment are inexorably linked. Now that we have finally made the connection it is important that all proposals for new economic activity be carefully screened to ensure that they are acceptable to society in terms of their environmental costs. As part of its responsibility to its members and to society in general the Brotherhood has prepared this position paper on the RCN project and the NDP government's Bill 143 response. The RCN project appears to promise much. Is Bill 143 right in refusing to consider the RCN project as an unacceptable "out of sight out of mind" solution to the GTA's garbage crisis or is RCN worth a closer look?

2.0 The Problem

One presenter before the Standing Committee examining Bill 143 suggested that a future archaeologist may well conclude of our society "This wasn't the Stone Age or the Bronze Age or the Iron Age; these people lived in the Trash Age".³ Unfortunately mountains of garbage and non-biodegradable solid waste may well be our society's most enduring legacy. The average Ontario resident throws out more than 2.5 kilograms of waste every day. This amounts to 10 million metric tonnes per year.⁴ Currently only 20% of this amount

³ Presentation of Ed Burt, Hansard s-1490, February 17, 1992.

⁴ This amount refers to industrial and commercial sources as well as residential. Provincial MOE figures as quoted in "Is the Blue Box a Red Herring?" by Francesco Galassi at page A18 of The

is being recycled.

We live in a consumer society rather than a conserver society and although we may be slowly learning to change our ways we are probably producing more waste than ever before. Recognition of the problem has led to a number of initiatives to deal with it. For example, the hierarchical three R's of reduce, reuse and recycle are becoming more engrained into social habit. The very popular, although economically troubled, blue box program has helped stimulate Ontario's nascent recycling industry while municipal pilot projects selling home composters have also proven very popular.⁵ The federal Task Force on Packaging has taken significant steps to reduce the amount of superfluous packaging that accompanys Canadian goods.⁶ All these initiatives are worthwhile and long overdue. However, it will be some time before the waste stream is cut to more managable levels.⁷ In the interim it will still be necessary to utilize landfills to deal with the waste.

Nowhere in Canada is the problem more severe than in the Greater Toronto Area (GTA). Home to approximately 40% of Ontario's

Globe & Mail, April 10, 1992.

⁵ Currently an estimated 2.7 million single family homes in Ontario are serviced by the Blue Box program which diverts an estimated 340,000 tonnes of material from landfills every year. Ontario's Municipal Reduction/Reuse program has provided backyard composters to approximately 300,000 homes. MOE Environment Information, Fall 1991, p.6.

⁶ 21% of total solid waste by weight is made up of packaging and containers. MOE Environment Information, Fall 1991, p.5.

⁷ In October 1990 the provincial government confirmed its committment to waste reduction targets of 25% by 1992 and 50% by 2000. See MOE Environment Information, Fall 1991, p.4.

population (approximately 4 million people) this densely populated urban area produces a spectacular amount of solid waste - 4.7 million tons - about half of the provincial total. Historically, Toronto and the municipalities of Peel, Durham, York and Halton have managed to look after their own garbage in local landfill sites. However, in recent years these sites have reached near-capacity levels. The question of what to do with Metro's garbage once these sites close has become a pressing issue. Initial estimates have since been revised to give Metro's politicians a few more years to solve the "crisis"⁸, however, the need for a long term solution remains pressing.

3.0 A Proposed Solution ?

In 1989 an innovative solution to Metro's garbage woes was developed by Notre Development Corporation (Notre). The concept was simple. Use an existing rail link to transport Metro's waste to a "willing host" community that would be able to provide an environmentally secure landfill site.

In March of 1990 the Adams Mine site in the Township of Boston, just south of Kirkland Lake, closed. Three hundred and fifty jobs were lost with the ending of open pit operations. Ownership of the property passed from Dofasco and Chevron Resources to Notre. Notre began consulting with local municipalities and

⁸ The Association of Municipalities of Ontario, for example, has disputed whether there is a waste disposal "crisis" in the GTA. Without a crisis, they argue, there is no pressing reason for legislation such as Bill 143. See AMO's Response to Bill 143, Report Series 1991, January 1992 at p.11.

Metro Toronto about the possibility of using the site for a solid waste disposal and recycling facility.

In December, 1990 Metro paid Notre \$1.5 million to take out an option on the Adams mine site. The option lasts for 5 years and allows Metro the chance to buy the site for approximately \$35 million. At the same time Metro signed an agreement with the "host municipalities" of Kirkland Lake, Englehart and the Township of Larder Lake. The agreement obligated Metro to pursue developing the site for solid waste and recycling purposes and obligated the host communities to support Metro's efforts. The major players in the project are Metro and the host municipalities. The proposal envisions that the site will, in fact, be owned and operated by Metro. While Notre's involvement in the RCN project is largely that of a broker/promoter it does intend to develop an aggregate processing operation on the site. These processed aggregate materials may create a backhaul opportunity for the railcars hauling waste to the site. Other directly interested parties include the railway lines CN and the ONR.

All parties have agreed that the whole project is contingent upon receiving final approval under the provincial Environmental Assessment Act. Additional mandatory conditions are the establishment of a recycling plant, use of the ONR and that all these terms and conditions be incorporated into the site operation license issued by the Ministry of Environment.⁹ While there is not

⁹ See, for example, the Northeastern Ontario Municipalities Action Group Resolution, March 4, 1991.

unanimity among the local community about the proposal in a recent referendum 69% of local residents voted in favour of proceeding with an environmental assessment of the proposal. The three host municipalities represent 93% of the regional population.¹⁰

According to the Agreement the site would receive up to 1.5 million tons of the GTA's domestic solid waste annually. This is currently about one third of what is produced in the GTA. The waste would be transported by rail in closed containers on existing rail system directly to the mine site. A recycling plant capable of handling 120,000 tons per year would receive extracted recyclable products. The landfill site would have a projected lifespan of approximately 20 years.

The project's proponents argue that the project is economically and environmentally sound for all participants. They claim the RCN proposal offers the economically devastated North the chance to develop a new and sustainable industry. A gradual decline in mining and forestry activity coupled with the current recession has left many communities in the District with unemployment in excess of 20%.¹¹ While Metro bears the responsibility for purchasing and developing the site it is also obligated to give preference to local (northern) labour for jobs

¹⁰ See Submission of Town of Kirkland Lake, Town of Englehart and Township of Larder Lake, Standing Committee on Social Development, Bill 143 Hearings, Hansard p.S-1516, February 18, 1992.

¹¹ Rees, Christopher, "Project Analysis and Overview of Sustainable Development", Peat Marwick Stevenson & Kellogg, Management Consultants, February 26, 1991, at p.7.

created by the RCN project. In support of their position the proponents have provided the following detailed projections about the economic impacts and the environmental effects of the RCN project.

3.1 Economic Benefits¹²

Start-up & Construction

Start-up and construction activities in preparing the landfill site are estimated to create about 75 jobs which will in turn contribute approximately \$2.2 million to the local economy. A total of \$12 million is to be spent on start up materials and plant and equipment. Within two years of starting up Metro is required to construct a recycling plant. This is again estimated to create a further 75 jobs generating nearly \$2 million. The amount invested in materials and plant and equipment should range between \$17 and \$22 million. Furthermore, using an employment multiplier of 1.4 suggests that an additional 60 spin-off jobs should result. The overall start-up and construction phase is estimated to yield 210 jobs (for 12-18 months, wage generation of \$6.3 million, expenditure on materials and supplies of \$4 million, interim taxes of over \$100,000, an accumulated impact from the above of \$10.4 million and a total investment in plant and equipment of at least \$25 million.

Operation of the Site

¹² The following figures are taken from the a KPMG study done for the proponent. See Rees, Christopher, supra note 11.

Once the site is completed the landfill site and the recycling plant are each estimated to provide full time employment for 75 people generating \$6.3 million in local income. Both facilities would require an annual expenditure for materials and supplies of \$2 million. Metro will pay to the host region a royalty of \$1.10 per ton. Based on a 1.5 million tons annually this should provide a total of \$1.65 million which will be distributed on a per-capita basis to all local government institutions in the host area. The three host municipalities will also receive an annual grant-in-lieu of taxes estimated at \$600,000. Taxes from spin-off development in the area are expected to add an additional \$200,000 to municipal funds. Finally, Metro's provision of free waste disposal and recycling to the host communities is valued at \$300,000 annually. In total, the proponent estimates the RCN project could provide an infusion of \$13.3 million per year to the local economy.

Development of the Site

Under the agreement Metro is obligated to contribute \$250,000 per year to research and development into solid waste disposal and recycling technology. It is expected that this contribution would go towards the establishment of an on-site research institute. Possibly additional money from government or private grants could be added to this \$250,000 to create an annual budget of between \$500,000 to \$1 million. The primary purpose of such an institute would be to ensure that the project be a "sustainable development". At current prices it is estimated that recycling plastic, glass,

steel, aluminum and cardboard could yield an annual saleable product of \$3.2 million. This figure does not include compost and paper. It is also possible that the site could support a waste-fueled power generation facility that could in turn support a full industrial park on site.

The Railway Link

A further economic benefit is the anticipated rail investment of \$60 million for the purchase of specialized containers and rolling stock and the development of terminal facilities at both ends. Local suppliers of goods and services will benefit as well as container manufacturing locations. The tonnage transport costs are estimated to provide the railway companies with \$40 million per year. Of this amount \$10 million would go to the Ontario Northland Railway, a provincial Crown Corporation.¹³ This amount of income should help maintain a substantial number of jobs which would otherwise disappear. Maintaining a healthy northern railway link will also have positive benefits for other northern economic activities and for the general social fabric of the north. The rail shipping cost is estimated to be \$20 per ton. Nine dollars of that cost will be directed to the ONR. Based on an annual tonnage of 1.5 million tons total railway earnings stand at \$30 million per year, with the ONR collecting \$13.5 million.

Metro's Benefits

Currently, the landfill tipping fee for the Keele Valley site is

¹³ In 1990 the ONR suffered a \$5 million loss and was projected to lose a further \$8 million in 1991.

\$150 per ton. The RCN project offers Metro a tipping fee of \$1.10 per ton. The initial land and construction costs for a site within the GTA have been estimated at \$400,000,000 versus \$100,000,000 for the Adams mine site. A landfill in Metro must also incur the costs of road construction and relocation, traffic congestion, and effects on agriculture. On the other hand the Adams Mine site is already served by existing hydro, gas and rail lines and has large amounts of sand cover materials on site.

3.2 The Environmental Factors

The Site

The proponent argues that the Adams Mine site is capable of supporting a landfill site with little environmental risk. The site consists of over 8,000 acres of which only 110 will be used for solid waste. It is proposed to place the waste into two large open mine pits. The South Pit is 600 feet deep and has the capacity to accept 17,600,000 tons of waste. The central pit is 590 feet deep and can accomodate 10,450,000 tons. In late 1990 Golder Associates, a firm of consulting engineers, carried out a preliminary hydrogeological investigation of the site for Metro. In a letter to Metro's Director of Waste Management, dated December 28, 1990, the firm reported that the,

results of the preliminary investigation have indicated that favourable conditions exist for the development of landfill(s) in the Adams Mine open pits using the hydraulic containment design concept.

While the investigation found large quantities of water already in

the pit it attributed this to precipitation and local runoff. The rock walls, it concluded, were largely impermeable and the groundwater influx was quite slow. These findings support the proponents plan to contain all the leachate, liquid that has passed through the landfill mass absorbing soluble contaminants, and pump it to the surface for treatment. Notre's "Conceptual Plan" for the site also includes a methane gas extraction facility. The proponents claim that the Adams Mine site can be developed into a state-of-the-art landfill site.

Metro

A significant feature of the Adam's Mine site is its distance from human communities. The proponents claim that this is a important environmental benefit for Metro. In addition to economic, social and political costs, developing a new landfill site within the GTA is a health risk. It makes no sense to develop a long term solid waste site smack in the middle of the provinces most densely populated area. For example, Bill 143 purports to expand the Keele Valley landfill site, the largest landfill in Canada, while a new site is selected. Yet only four feet of clay separate the 20 million plus tons of garbage from the aquifers of the Don River. The plans to expand the landfill have angered local residents who fear the implications of groundwater contamination of one of the GTA's few pure water sources.¹⁴

The Transportation System

¹⁴ Submission of the Maple Village Ratepayers Association, Standing Committee on Social Development, Bill 143 Hearings, Hansard p. S-1454, February 13, 1992.

Existing rail lines directly link the Adams site with CN lines in Metro. The proposal calls for the construction of a waste transfer facility at CN's MacMillan Yard in Vaughan (in the north of Metro) where solid waste will be placed in sealed 48 foot containers. These containers, each holding 25 tons of solid waste will be double-stacked on custom tailored flat cars. Unit trains carrying up to 100 cars will deliver the waste to the Adams Mine.

From Vaughn to North Bay the trains will operate on CN lines and will use ONR lines from North Bay to the minesite. In comparison with freight delivery by road, railways can reduce fuel consumption by 65% to 75%¹⁵ This results in a corresponding reduction in the amount of noxious emissions from fossil fuel burning and is environmentally beneficial. Using the rail network also reduces highway congestion and the amount of money needed for highway maintenance and construction. For example, a new landfill in York would have to be developed north of Keele Valley requiring millions of dollars for new road construction, the expansion of local traffic systems and increased local air pollution. Using the CN -

Vaughn rail facility would eliminate the need for new roads, road maintenance costs, substantially reduce truck traffic in the GTA.

4.0 The Proposal Rejected - Bill 143

Through its Solid Waste Interim Steering Committee (SWISC) Metro had been looking for a long term solution to the garbage issue since 1986. In December of 1989 Notre was one of 86 parties to

¹⁵ CN 5R Waste Management Brochure, p.4.

submit a formal "expression of interest" to SWISC. The proposal was of sufficient interest to Metro that in November of 1990 it was willing to pay Notre \$1.5 million to take an option on the property. Ruth Grier, Environment Minister as of October 1990 provided encouragement in a letter to Metro dated November 23, 1990. In it she said,

I am told that in the case of Metro, keeping long term site options open may require certain expenditures. I would request Metro to preserve these options through use of its landfill reserve funds.¹⁶

Metro then went ahead with the payment to Notre and spent a further \$1 million on developing the project including \$500,000 on test drilling at the mine site.¹⁷ Shortly thereafter the new Interim Waste Authority was created to take over the responsibility, formerly Metro's, of dealing with the GTA garbage issue.¹⁸ The creation of the IWA was an ominous omen for the RCN proposal.

By the spring of 1991 the Ministry's position on the RCN project had changed. It was no longer being considered as an option and was now declared to be "unthinkable". On April 2, 1991 the Minister told the legislature that all communities must accept responsibility for the waste they generate and that long term waste

¹⁶ Egan, Kelly, "Gord McGuinty: The Man Behind the Garbage Plan", The Ottawa Citizen, Saturday April 4, 1992 at B2.

¹⁷ Ibid.

¹⁸ The creation of the Interim Waste Authority Ltd. was announced on November 21, 1990 and it was subsequently incorporated on May 10, 1991.

disposal sites for the GTA must be inside the GTA.¹⁹ The rationale for this position was quite simple. The Minister now viewed the long distance transport of waste as inconsistent with the goal of waste reduction. When waste is shipped out of Metro, the thinking goes, so too is all incentive to reduce waste generation. Out of sight, out of mind.

On October 24, 1991 Ruth Grier moved to enshrine this policy in provincial law. In her capacity as Minister responsible for the Office for the Greater Toronto Area, she introduced Bill 143 - An Act respecting the Management of Waste in the Greater Toronto Area and to Amend the Environmental Protection Act.²⁰ One of its many provisions was specifically designed to prohibit the long distance transport of Metro's wastes forcing Metro to deal with its wastes inside its own boundaries.

Bill 143 is a bold and innovative piece of legislation. While, as its title indicates, it has been developed primarily to deal with the problem of the GTA's massive waste stream it also has province-wide significance. Its boldness lies mainly in the aggressive approach it takes to solving the garbage crisis by granting to the government strong rights of action. While this approach has won the support of many in the environmental community it has also angered many others, particularly municipalities, who fear that Bill 143 grants the provincial government excessive powers without regard for the traditional municipal control over

¹⁹ MOE Environment Information, Fall 1991, p.4.

²⁰ The short title is the Waste Management Act, 1992.

solid waste issues.²¹ Before looking at that part of the Bill that specifically affects the RCN proposal, though, we should get an idea of the overall thrust of the Bill.

The first part of the Bill continues the Interim Waste Authority as a Crown Agency and expands its powers. The IWA is empowered to expropriate land for the purposes of establishing landfill sites and to enter private property to carry out inspections for determining the suitability of land for the same purpose. The second part of the Bill establishes the specific areas within the GTA where the three new landfill sites must be located and outlines the content requirements for the environmental assessments of those sites.

Part III gives the Minister power to order the GTA municipalities to take certain actions with regard to waste management during the two to three year "disposal gap" between the opening of the new sites and closing of the old. These actions, which may include extending the life of a site or operating transfer stations, can be mandated by the Minister despite any conflicts with pre-existing agreements, bylaws or statutory obligations. Finally, Part IV of the Bill amends the Environmental Protection Act to help speed up 3R activities and projects in Ontario. It is aimed primarily at the corporate sector and allows for regulations to control packaging and to implement mandatory waste audits and waste reduction action plans. Clearly this is not

²¹ see the the Association of Municipalities of Ontario response to Bill 143, supra note 8.

a symbolic bill but one designed to achieve results and effect change.

The government's initial plan was to have Bill 143 passed by December 19 1991. However, parliamentary opposition resulted in the Bill being referred to the Standing Committee on Social Development which held public hearings during January and February of 1992. The Committee heard more than 200 presentations and received almost 50 written submissions from a variety of concerned groups and citizens. Some were supportive. However, many were not. Many commentators criticized what they perceived to be an autocratic attempt to, among other things, usurp municipal jurisdiction over solid waste management, attack private property rights, avoid public consultation and ideologically circumscribe possible solutions to the GTA garbage crisis. However, the purpose of this paper is not to evaluate Bill 143 in its entirety as a provincial waste management strategy. Rather we wish to focus on how the Bill impacts upon the RCN proposal. To do that we must look at Part II of the Bill and specifically section 14.

First we should remember that the provincial Environmental Assessment Act requires that all public bodies involved in "undertakings"²² such as landfill site operations, submit a document called an "environmental assessment" to the Minister of

²² Usually this term refers to major construction or development projects with obvious environmental impacts.

the Environment.²³ Section 5(3)(b)(iii) of the EA Act requires that this document include descriptions of possible alternatives to the proposed project. Depending upon the information revealed by this document the Minister may accept the proposal or call a public hearing to review the undertaking. Should a hearing be called, it will be conducted by an environmental assessment panel which will make a binding decision.²⁴

Section 14 deals with the scope and content of any environmental assessment required for any of the three new landfill sites to be developed within the GTA as mandated by section 12 of the Bill.²⁵ Section 14 (1) states that these environmental assessments need not consider any alternatives to the landfill site except reductions in the amount of waste generated, reusing and recycling of materials and the use of other single landfill waste disposal sites in the primary service area. Section 14(2) states that,

The environmental assessment is not required to contain any description of or statement of the rationale for, or any description or evaluation of any matter relating to,

(a) an alternative of waste reduction or reuse or recycling, if that alternative would involve incineration of waste or the transportation of waste from the primary

²³ The provincial government retains the right to "exempt" those public projects it feels do not require the EA process and to "designate" those private projects it feels do.

²⁴ Subject to an appeal to cabinet.

²⁵ Section 12 states that three landfill sites, each with a 20 year lifespan, be created in each of the Regional Municipalities of Peel, Durham and York/Metro Toronto.

service area to any other area ...(emphasis added).

A literal and legal interpretation of this section reveals no outright prohibition against incineration or long distance transportation. Section 14(2)(a) merely frees the proponent of the undertaking, the development of any of the s.12 landfill sites, from having to consider either of these two options as alternatives.

While section 14¹⁵ (1) places an initial restriction on the scope of the environmental assessment stating only what it is required to contain section 14¹⁵ (2)(a) goes even further by stating specifically what is not required. Short of an outright ban preventing all parties from considering the transportation option there is scarcely a more effective way to bury this as a waste management alternative. Bill 143 effectively ties the hands of the IWA by telling it, first, where the new landfills are to go. Secondly, by placing limits on the options the proponent must consider, it sidesteps the statutory requirements of the Environmental Assessment Act. Indeed, one commentator before the Standing Committee, a former chair of the Environmental Assessment Board, expressed concern that Bill 143 would fetter the discretion of the Environmental Assessment Board by limiting the alternatives that could be considered and thus undermine the integrity of the Act itself.²⁶

²⁶ Submission of Superior-Crawford Sand & Gravel Ltd. (Mr. Michael Jeffrey), Standing Committee on Social Development, Bill 143 Hearings, Hansard p. S-1430, February 13, 1992.

One of the reasons for Bill 143 is, then, to provide a statutory basis for the Minister's policy that there should be a ban on all transport of MSW. The Minister expressed this position in her recent closing statement to the Standing Committee reviewing Bill 143.

Any proposal for shipping garbage beyond the boundaries of the GTA, including the Kirkland Lake Adams Mine proposal, is an out-of-sight out-of-mind approach that provides no incentive for reducing wastes in this area of four million people. And with no incentive for waste reduction, the four million metric tonnes of garbage created here every year would be a constant threat to the environmental health and integrity of communities throughout the rest of the province. We have heard enough from communities across Ontario in recent years to be assured that they want protection against being deluged by Toronto area garbage.²⁷

The RCN option clearly contradicts the principle of local responsibility for local waste. As such it is seen more as part of the problem than as a possible solution. Interestingly, s.26 of the Bill reserves to the Minister, specifically to unelected Directors, the right to order the transport of waste between municipalites and force the recipient municipality to accept the MSW. This is, presumably, an emergency provision but suggests that waste transport is not always "unthinkable".

The Minister has apparently decided that preserving the sanctity of the local responsibility principle is of primary importance. A waste management solution that violates this

²⁷ Submission of Minister Ruth Grier, Standing Committee on Social Development, Bill 143 Hearings, Hansard p.S-1674, March 23, 1992.

principle will not be considered regardless of any benefits it may allegedly possess. Is this the best way to ensure the best possible solution to the GTA garbage issue?

5.0 The Union's Position

5.1 On Bill 143

The Brotherhood cannot accept that Bill 143's prohibition on waste transportation is really in the best interests of Ontarians. First of all, though, the brotherhood must express some concern over the process used in order to establish this principle. This Bill was introduced without an introductory statement in the legislature and without any attempts at public consultation. It was originally scheduled to become law less than two months after being introduced in the legislature. This is surprising for a Bill that is attempting to consolidate so much power in the hands of a single Minister. Dialogue and consultation are important elements of any responsible governing process. This is particularly so in the environmental field which has been long plagued by the appearance of government-industry complicity. Leaving aside all issues of substance the Brotherhood feels that the process by which the government has attempted to pass the new legislation reflects poorly on its commitment to the principle of public consultation.²⁸

²⁸ Incineration has also been eliminated as an option by virtue of s. 14 (2). However, the Minister had already announced a ban on municipal solid waste incinerators on April 11, 1991. There is fierce controversy over the effectiveness and safety of this technology and what role, if any, it may usefully play in management of solid waste. It is beyond the scope of this paper to comment further on this issue except to note that from many

More importantly, though, the Brotherhood must question the substance behind the Bill 143 prohibition - does the reasoning make sense? While the principle of local responsibility for waste management is not without appeal as an eventual solution it may be premature to introduce it at this stage. The GTA is likely to continue to produce large amounts of garbage in the near future regardless of the new measures introduced in connection with the three Rs. This garbage will still have to be dealt with. Will the optimum environmental solution be found by forcing the GTA to dispose of it within its own boundaries?

The Minister's philosophy is quite simple. As we have seen it is that transporting garbage away from where it is produced destroys any incentive to reduce the amount of waste produced. Presumably, what the minister hopes will happen by making GTA residents deal with their own garbage face to face is not that they will wallow in overflowing and unhealthy landfills but that they will drastically reduce the amounts of waste they produce. Will Bill 143 produce this effect? Is out-of-sight truly out-of-mind?

The Brotherhood found persuasive many of the points put forward by CAW Local 103 in their submission to the Standing Committee on Bill 143. Spokesperson Craig Kemp challenged the legitimacy of the out-of-site out-of-mind argument by suggesting that the development of the conserver ethic,

is a mental process that has no bearing on the
proximity of a garbage dump....It is the

perspectives, though not the provincial government's, the debate is ongoing.

personal awareness of each individual in daily activities that will create a conserver society, not the nearness of a landfill site. Landfills were never intended to foster conserver ethics. They exist because of the failure to use those ethics. Their location is totally immaterial.²⁹

Is the development of the conserver ethic in the GTA dependent on the existence of a waste disposal crisis?

While some form of leadership is necessary to change our consumption and disposal habits it is neither necessary or justifiable, the Brotherhood submits, to deliberately foster a crisis situation in order to manipulate change. The conserver ethic can be developed in less radical ways. The participatory rates in programs like the Blue Box program indicate a willingness on the part of the public to undertake personal change in order to embrace environmental protection. Granted recycling with the blue box is relatively easy and is the least environmentally useful of the 3Rs. However, recycling is, hopefully, just the crest of a wave of individual lifestyle changes that are slowly taking root and gaining broad acceptance. Social change is often a slow process. The Minister's apparent purpose in banning waste transport is to accelerate that social change through the creation of an even more severe garbage crisis. To those who would argue that the environment can't afford the luxury of time we would reply that there is also danger in forcing radical changes on people before they are ready to receive them. The Minister's decision to

²⁹ Presentation of CAW Local 103 before the Standing Committee on Social Development, 17 February, 1992 as reported in Hansard at p. S-1478-9.

eliminate the transport of waste as an option on the basis of what seems to be an ideological predisposition should be a matter of considerable concern.

Furthermore, if it is true that local responsibility for waste will lead to a reduction in the waste stream what degree of proximity is required? For example, will the garbage production of residents of downtown Toronto be affected by a landfill 40 miles away in York Region? For all the impact this landfill has on their behaviour it might as well be in Kirkland Lake. The Brotherhood has not seen any evidence to support the assertion that local accountability for waste will have the behavioural effects the Minister alleges. At the very least the actual implications of local responsibility should be considered and debated before the Minister adopted this principle as dogma.

The Minister's decisions about waste management in this province should be based on a comprehensive examination of all the options. The reasons given for banning the transportation of waste are not convincing enough to warrant the Minister's tough stand. The RCN proposal may be as full as holes as its detractors claim but at the moment no one, not even the Minister, know this to be true. The people of Ontario deserve to have all options considered.

5.2 On the RCN Proposal

Environmental Factors

As noted earlier, support for the project, from all parties, is conditional on a positive environmental assessment pursuant to the provincial Environmental Assessment Act. Such a review is essential simply because, at the present time, the environmental implications of the project are unknown. An environmental assessment would allow these issues to be fully considered. The broad definition of "environment" that is used in the Act will also allow for public consideration of the economic and social implications of the project.³⁰

For example, the Brotherhood has some concerns about the potential for groundwater contamination from leachate collecting at the bottom of the garbage pits. The Anti-Garbage Coalition, in their presentation to the Standing Committee at Kirkland Lake, raised several points on this issue.³¹ They challenged the suitability of the pit storage method citing the dangerous proximity of the leachate to groundwater. A history of rock blasting has apparently left numerous fissures and cracks in the rock walls of the Adam's Mine Pit. The pit storage method relies on pumping out the leachate that will collect at the bottom of the pit. However, should the leachate pipes clog up or collapse, the

³⁰ The definition of "environment" in s.1(c) includes "the social, economic and cultural conditions that influence the life of man or a community".

³¹ Submission of the Anti-Garbage Coalition, Standing Committee on Social Development, Bill 143 Hearings, Hansard page S-1564, February 18, 1992.

immense pressure weighing down on the leachate collected at the bottom of the pit may force it out through the cracks in the rock walls into the surrounding groundwater. Groundwater contamination is nearly impossible to contain. A further concern is that leachate will continue to collect at the pit bottom long after the 20 year lifespan of the landfill has expired. Long after the landfill site is closed leachate pumping may have to continue. Is the RCN proposal sufficiently state of the art to deal with this problem? Furthermore, while rail transport is more efficient than trucking, is there going to be a net reduction or increase in the amounts of fossil fuel burned? What impact will the proposal have on truck traffic in the GTA?

Economic Factors

The economic projections may be seen by some as overly optimistic and are certainly deserving of more scrutiny. In particular, it is not clear where most of the recycling activities will take place. Given that most sorting is done before garbage collection it would seem to make more sense to have the recycling process concluded in the GTA. The basis of the RCN recycling component would seem to require shipping presorted recyclables north for further processing. Notre President Gordon McGuinty has described this as "a small partnership contribution to sustainable development in Northern Ontario to assist the 3Rs in the north".³² The recycling process might also involve secondary extraction of recyclables from

³² Submission of Notre Development Corporation (Mr. Gordon McGuinty) to the Standing Committee on Social Development, Bill 143 Hearings, Hansard p.S-1089, January 23, 1992.

the waste stream once it reaches the Adam's Mine site. Will there be enough recyclable material to make this procedure viable?

Furthermore, the amount of money dedicated to the establishment of the recycling research and development facility is only \$250,000. This seems, even if increased through further grants and contributions, to be a paltry sum.

The Railway's Role

One element of the RCN proposal the Brotherhood has little concern about is the viability of the railway as a transportation method. CN, as a partner in the RCN proposal, has already committed significant resources to developing and promoting what it calls its 5R solution to the GTA waste crisis - reduction, re-use, recycling, recovery and railway.³³ The technology for the transport of solid waste by train has already been developed and is, in fact, used extensively in other countries, particularly in the U.S.A.

For example, since April of 1991 Union Pacific railroad has been transporting 1200-1500 tons per day of Seattle's MSW 300 miles to an inland landfill site.³⁴ This system uses intermodal containers which are filled with MSW at a transfer station and then taken by truck to the rail line where they are loaded 100 containers to a train. An even more massive project is being

³³ While CN is the railway involved in the RCN project, CP also has an interest in the waste railhaul field. See their submission to the Standing Committee in Hansard of February 10, 1992.

³⁴ Woods, Randy, "Railhaul: In the Long Run", Waste Age, December 1991 at 35.

developed to handle the 85,000 tons per day created in Southern California. Along the 200 mile route to the landfill will be sited at least two Material Recovery Facilities (MRFs) which will aim at a 40% diversion goal. At an estimated 1993 cost of \$43.53 per ton the project operator will initially lose money but estimates that within a year its costs will be lower than the costs of trucking and urban landfiling within the L.A. basin.³⁵ In response to concerns about railway safety the operator provided statistics showing that between 1983-88 trains had 40% fewer fatal accidents than trucks.³⁶

On the general issue of safety, the intermodal containers developed for waste shipment are air and water tight further minimizing the risk of environmental damage should a derailment occur.

Increased rail traffic will also create more employment in Ontario. When asked by the Standing Committee on Bill 143 to comment on the potential impact of the RCN proposal on the CN workforce, a company official replied that the maintenance of way

workforce will be retained, maintained and may be increased somewhat. It will definitely increase our workforce where we are adding new unit trains, adding new engines. There will be more motive power crews required. There will certainly be more jobs at the origin and destination for loading and offloading containers and the terminal activity that goes on with the set up and movement of a unit

³⁵ Ibid. at 36.

³⁶ Ibid. p.42.

train...³⁷

The same positive impacts would be felt at the ONR whose crews would operate the trains from North Bay to the mine site.³⁸

6.0 Conclusion

In conclusion, the Brotherhood believes that the Waste Management Act should be amended so as to allow the IWA to consider the option of waste transportation as a possible solution to the GTA garbage problem. The Act's prohibition appears to be based less on sensible environmental and economic policy and more on inflexible ideology. No sociological evidence has been introduced to support the Ministry of Environment's position that waste transportation per se will defeat efforts at waste reduction. Furthermore, the Bill, in this and other areas, takes a noticeably dictatorial approach to addressing the garbage issue. Firm leadership is obviously needed but the actions taken must be logical, reasonable and respectful of the public's rights to consultation and fair process.

That having been said, the Brotherhood wishes to stress that it is not unconditionally endorsing the RCN proposal. Some of the economic aspects of the proposal are unclear. For example, is the recycling to be done in Toronto or at the site. If recycling is to be done at both ends how much recycling and of what type will

³⁷ Rick Hayes, CN official, CN Submission to the Standing Committee on Bill 143, February 10, 1992, Hansard at p. S-1315.

³⁸ The ONR is apparently unable to take a public position on the RCN proposal because, as a provincial Crown Corporation, it cannot act in contradiction to government policy.

be done in the North? What are the overall final costs of disposing of GTA waste in the GTA as opposed to using the RCN system?

More importantly, there are also unresolved environmental issues. Can the Adam's Mine site safely handle 1.5 million tons of waste a year without contaminating the groundwater? Will using rail traffic result in a net decrease in fossil fuel emissions or will just as many trucks be needed to take waste to the Vaughn transit station as would be used to take waste to GTA landfills?

And, obviously, the host communities must remain willing host communities. While the debate in Kirkland lake has been acrimonious there has, so far, been a clear majority in favour of further study of the proposal.

These questions are complex and difficult. However, given the importance of the issue they deserve a closer look. Presently, no one knows all the answers. An environmental assessment could well provide enough answers to allow for an informed decision on whether to proceed with the proposal or not. In a recent article in the Globe & Mail Ruth Grier wrote,

The total capital and operating costs of shipping Toronto area waste to an abandoned mine site near Kirkland Lake, as proposed to the previous government, would be far higher than sending it to a local landfill. Environmental costs, including consumption of fossil fuels and related air pollution, would be significant.³⁹

If this is the case then the government surely has the

³⁹ Grier, Ruth, "Make the Polluters Pay the Tab", Globe & Mail, March 26, 1992 at A16.

responsibility of showing it to be so. It cannot refute the allegations of the RCN promoters by obstinately hiding behind the out-of-sight out-of-mind cliché. The Brotherhood is persuaded that sufficient evidence in support of the RCN proposal exists to justify further consideration.

Let us not forget that "sustainable development", an important catchphrase for the 90's, contains two elements. Economic development that is environmentally sustainable should not be constrained without good reason. Ontario's North is severely depressed and in need of economic revitalization. The GTA is experiencing a serious waste disposal issue. If an environmentally acceptable project can be found that will assist both these constituencies then the Ontario Government is surely obligated to give it careful consideration.

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The Brotherhood of Maintenance of Way Employees.
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AREA WASTE DISPOSAL ISSUE. A POSITION PAPER. /
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